



April 8, 2003

ENGROSSED HOUSE BILL No. 1811

DIGEST OF HB 1811 (Updated April 3, 2003 6:32 PM - DI 44)

Citations Affected: IC 4-4; IC 5-17; IC 5-22; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-6; IC 6-8.1; IC 6-9.

Synopsis: Various tax matters. Prohibits the state from purchasing supplies or services from a business that is delinquent in payment of sales tax. Provides that out-of-state businesses that do business with the state are to be treated as if they are located in Indiana for purposes of collecting and remitting the sales tax. Requires the filing of an amended Indiana return when modifications in a taxpayer's federal return results in a change in the taxpayer's adjusted gross income. Eliminates a requirement that a withholding agent that makes electronic adjusted gross income deposits file a quarterly return. Expands the penalties applicable to a person who does not register an aircraft and pay applicable gross retail taxes. Eliminates the requirement that the department of state revenue collect vehicle identification information on a tax return. Allows the department of state revenue to remove a person who is not liable for unpaid tax from an assessment notice. Indicates that the limitation period on the issuance of an assessment does not apply to an assessment reissued to the persons liable for the tax. Authorizes certain cities to impose an admissions tax upon the price of admissions to certain entertainment facilities. Repeals an obsolete law granting an expired investment credit and a criminal penalty for failure to provide motor vehicle information to the department of state revenue.

Effective: July 1, 2003.

Crawford, Cochran

(SENATE SPONSORS — BORST, SIMPSON)

January 23, 2003, read first time and referred to Committee on Ways and Means.
February 10, 2003, amended, reported — Do Pass.
February 18, 2003, read second time, amended, ordered engrossed.
February 19, 2003, engrossed.
February 24, 2003, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 27, 2003, read first time and referred to Committee on Finance.
April 7, 2003, amended, reported favorably — Do Pass.

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April 8, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1811

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-8-1, AS AMENDED BY P.L.227-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. As used in this chapter:

4 "Department" means the department of commerce.

5 "Enterprise zone" means an enterprise zone created under
6 IC 4-4-6.1.

7 "Governing body" means the legislative body of a city, town, or
8 county, an economic development commission, or any board
9 administering the affairs of a special taxing district.

10 "Industrial development program" means any program designed to
11 aid the growth of industry in Indiana and includes:

12 (1) the construction of airports, airport facilities, and tourist
13 attractions;

14 (2) the construction, extension, or completion of sewerlines,
15 waterlines, streets, sidewalks, bridges, roads, highways, public
16 ways, and information and high technology infrastructure (as
17 defined in this section);

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(3) the leasing or purchase of property, both real and personal;
and

(4) the preparation of surveys, plans, and specifications for the
construction of publicly owned and operated facilities, utilities,
and services.

"Information and high technology infrastructure" includes, but is not
limited to, fiber optic cable and other infrastructure that supports high
technology growth and the purchase and installation of such fiber optic
cable and other infrastructure.

"Minority enterprise small business investment company" means an
investment company licensed under 15 U.S.C. 681(D).

"Qualified entity" means a city, town, county, economic
development commission, or special taxing district.

"Small business investment company" means an investment
company licensed under 15 U.S.C. 691 et seq.

"State corporation" means the state corporation ~~(as defined by~~
~~IC 6-3.1-5-2):~~ **organized under IC 6-3.1-5-7 (before its repeal) and**
IC 6-3.1-5-8 (before its repeal).

SECTION 2. IC 5-17-1-11 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2003]: **Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of**
personal property made after June 30, 2003, by an agency (as
defined in IC 4-13-2-1) or a state educational institution (as defined
in IC 20-12-0.5-1) to the same extent as if the lease or purchase
were subject to IC 5-22.

SECTION 3. IC 5-22-16-4 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An offeror that
is a foreign corporation must be registered with the secretary of state
to do business in Indiana in order to be considered responsible.

(b) **This subsection applies to a purchase of supplies or services**
for a state agency under a contract entered into or purchase order
sent to an offeror (in the absence of a contract) after June 30, 2003,
including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A
state agency may not purchase property or services from a person
that is delinquent in the payment of amounts due from the person
under IC 6-2.5 (gross retail and use tax). A purchasing agent shall
require an offeror submitting a bid or contract to certify that the
offeror is not an ineligible vendor under this subsection.

(c) The purchasing agent may award a contract to an offeror pending
the offeror's registration with the secretary of state. If, in the judgment
of the purchasing agent, the offeror has not registered within a
reasonable period, the purchasing agent shall cancel the contract. An



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offeror has no cause of action based on the cancellation of a contract under this subsection.

SECTION 4. IC 6-2.5-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003] **Sec. 14. The department shall provide the Indiana department of administration and each purchasing agent for each state educational institution (as defined in IC 20-12-0.5-1) with a list of persons that are delinquent in remitting or paying amounts due to the department under this article. The department shall periodically revise the list to notify the Indiana department of administration and state educational institutions of additions or deletions from the list.**

SECTION 5. IC 6-2.5-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person that:

(1) makes retail transactions from outside Indiana to a destination in Indiana;

(2) does not maintain a place of business in Indiana; and

(3) **either:**

(A) engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana;

(B) enters into a contract to provide property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1); or

(C) agrees to sell property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1);

shall file an application for a retail merchant's certificate under this chapter and collect and remit ~~the use~~ tax as provided in this article. **Conduct described in subdivision (3)(B) and (3)(C) occurring after June 30, 2003, constitutes consent to be treated under this article as if the person has a place of business in Indiana or is engaging in conduct described in subdivision (3)(A), including the provisions of this article that require a person to collect and remit tax under this article.**

(b) A person is rebuttably presumed to be engaging in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person does any of the following:

(1) Distributes catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, regardless of whether the distribution is by mail or otherwise and without regard to the place from which the distribution originated or in which the materials were prepared.



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(2) Displays advertisements on billboards or displays other outdoor advertisements in Indiana.

(3) Advertises in newspapers published in Indiana.

(4) Advertises in trade journals or other periodicals that circulate primarily in Indiana.

(5) Advertises in Indiana editions of a national or regional publication or a limited regional edition in which Indiana is included as part of a broader regional or national publication if the advertisements are not placed in other geographically defined editions of the same issue of the same publication.

(6) Advertises in editions of regional or national publications that are not by the contents of the editions geographically targeted to Indiana but that are sold over the counter in Indiana or by subscription to Indiana residents.

(7) Broadcasts on a radio or television station located in Indiana.

(8) Makes any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(c) A person not maintaining a place of business in Indiana is considered to be engaged in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person engages in any of the activities described in subsection (b) and:

(1) makes at least one hundred (100) retail transactions from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months; or

(2) makes at least ten (10) retail transactions totaling more than one hundred thousand dollars (\$100,000) from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months.

(d) The location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana, including products and services such as creation of copy, printing, distribution, and recording;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section.

SECTION 6. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which he has filed with the United States

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Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

(b) Each taxpayer shall notify the department of any modification of:

(1) a federal income tax return filed by the taxpayer after January 1, 1978; or

(2) the taxpayer's federal income tax liability for a taxable year which begins after December 31, 1977.

The taxpayer shall file the notice, on the form prescribed by the department, within one hundred twenty (120) days after the modification is made.

(c) If the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made.

SECTION 7. IC 6-3-4-8.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.1. (a) Any entity that is required to file a monthly return and make a monthly remittance of taxes under sections 8, 12, 13, and 15 of this chapter shall file those returns and make those remittances twenty (20) days (rather than thirty (30) days) after the end of each month for which those returns and remittances are filed, if that entity's average monthly remittance for the immediately preceding calendar year exceeds one thousand dollars (\$1,000).

(b) The department may require any entity to make the entity's monthly remittance and file the entity's monthly return twenty (20) days (rather than thirty (30) days) after the end of each month for which a return and payment are made if the department estimates that the entity's average monthly payment for the current calendar year will exceed one thousand dollars (\$1,000).

(c) If a person files a combined sales and withholding tax report and either this section or IC 6-2.5-6-1 requires the sales or withholding tax report to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(d) If the department determines that an entity's:

(1) estimated monthly withholding tax remittance for the current year; or

(2) average monthly withholding tax remittance for the preceding year;

exceeds ten thousand dollars (\$10,000), the entity shall remit the

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1 monthly withholding taxes due by electronic fund transfer (as defined
2 in IC 4-8.1-2-7) or by delivering in person or by overnight courier a
3 payment by cashier's check, certified check, or money order to the
4 department. The transfer or payment shall be made on or before the
5 date the remittance is due.

6 (e) If an entity's withholding tax remittance is made by electronic
7 fund transfer, the entity is not required to file a monthly withholding
8 tax return. ~~However, the entity shall file a quarterly withholding tax~~
9 ~~return before the twentieth day following the end of each calendar~~
10 ~~quarter.~~

11 SECTION 8. IC 6-6-6.5-19 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The registration
13 of any taxable aircraft without payment of the tax imposed by this
14 chapter shall be void, and the department shall take possession of the
15 certificate of registration and other evidences of registration, until the
16 owner shall have paid the tax together with any penalties assessed by
17 the department.

18 (b) If an owner does not register his aircraft and pay the tax imposed
19 by this chapter when required, the owner is subject to a penalty and
20 interest on the unpaid tax. The penalty is the greater of twenty dollars
21 (\$20) or twenty percent (20%) of the unpaid tax. The interest applies
22 at the rate established in IC 6-8.1-10-1. The penalty and interest apply
23 from the date the tax becomes delinquent until the aircraft is registered
24 and the tax paid.

25 (c) If an airport owner does not report the aircraft based at his
26 airport when required by section 23 of this chapter, the department may
27 assess a penalty equal to ten dollars (\$10) for each day that the report
28 is late.

29 (d) If an owner does not register the owner's aircraft and pay the
30 gross retail or use tax when required by this chapter, the owner shall be
31 subject to ~~a penalty~~ **the penalties** and interest on the unpaid gross retail
32 or use tax ~~as that are~~ established in ~~IC 6-8.1-10-1. IC 6-8.1-10.~~

33 SECTION 9. IC 6-8.1-5-2.5 IS ADDED TO THE INDIANA CODE
34 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
35 1, 2003]: **Sec. 2.5. (a) If the department determines that a proposed**
36 **assessment notice includes an individual who is not responsible for**
37 **the tax liability, a new assessment may be made naming only the**
38 **taxpayer that is responsible for the tax liability.**

39 (b) **For assessments made under subsection (a), the time**
40 **limitation for assessments in section 2 of this chapter does not**
41 **apply.**

42 SECTION 10. IC 6-8.1-6-5 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. ~~(a)~~ The department
2 shall request from each taxpayer

3 ~~(1) vehicle identification information for vehicles owned by the~~
4 ~~taxpayer; and~~

5 ~~(2) the amount of the taxpayer's gross income (as defined in~~
6 ~~Section 61 of the Internal Revenue Code) derived from sources~~
7 ~~within or outside Indiana using the provisions applicable to~~
8 ~~determining the source of adjusted gross income that are set forth~~
9 ~~in IC 6-3-2-2. The taxpayer shall itemize the amount of gross~~
10 ~~income derived from each source.~~

11 ~~(b) The department shall send a list to the bureau of motor vehicles~~
12 ~~showing by taxpayer the vehicle identification information obtained by~~
13 ~~the department. However, the name, tax identification number, and the~~
14 ~~corresponding information sent to the bureau may not include income~~
15 ~~tax information.~~

16 SECTION 11. IC 6-8.1-7-1, AS AMENDED BY P.L.204-2001,
17 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2003]: Sec. 1. (a) This subsection does not apply to the
19 disclosure of information concerning a conviction on a tax evasion
20 charge. Unless in accordance with a judicial order or as otherwise
21 provided in this chapter, the department, its employees, former
22 employees, counsel, agents, or any other person may not divulge the
23 amount of tax paid by any taxpayer, terms of a settlement agreement
24 executed between a taxpayer and the department, investigation records,
25 investigation reports, or any other information disclosed by the reports
26 filed under the provisions of the law relating to any of the listed taxes,
27 including required information derived from a federal return, except to:

28 (1) members and employees of the department;

29 (2) the governor;

30 (3) the attorney general or any other legal representative of the
31 state in any action in respect to the amount of tax due under the
32 provisions of the law relating to any of the listed taxes; or

33 (4) any authorized officers of the United States;

34 when it is agreed that the information is to be confidential and to be
35 used solely for official purposes.

36 (b) The information described in subsection (a) may be revealed
37 upon the receipt of a certified request of any designated officer of the
38 state tax department of any other state, district, territory, or possession
39 of the United States when:

40 (1) the state, district, territory, or possession permits the exchange
41 of like information with the taxing officials of the state; and

42 (2) it is agreed that the information is to be confidential and to be

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used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to township assessors.

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(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax ~~shall~~ **may** be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana ~~must~~ **may** be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.

SECTION 12. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 34. Entertainment Facility Admissions Tax

Sec. 1. (a) Except as provided in subsection (b), after June 30 of a year but before January 1 of the following year, the fiscal body of a city may adopt an ordinance to impose an excise tax, known as the entertainment facility admissions tax, for the privilege of attending any event:

- (1) held in a privately owned outdoor entertainment facility

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that:

- (A) has a minimum capacity of at least ten thousand (10,000) patrons; and
- (B) is located in a geographic area that has been annexed by the city before the adoption of the ordinance; and
- (2) to which tickets are offered for sale to the public by:
 - (A) the box office of the facility; or
 - (B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

- (1) An event sponsored by an educational institution or an association representing an educational institution.
- (2) An event sponsored by a religious organization.
- (3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.
- (4) An event sponsored by a political organization.
- (5) An event for which tickets are sold on a per-vehicle or similar basis and not on a per-person basis.

(c) If the fiscal body adopts an ordinance under subsection (a), the tax applies to an event ticket purchased after:

- (1) December 31 of the calendar year in which the ordinance is adopted; or
- (2) a later date that is set forth in the ordinance.

The tax terminates and may not be collected for events that occur after the city has satisfied any outstanding obligations described in section 5(c)(2) of this chapter.

Sec. 2. (a) As used in this section, "paid admission" refers to each person who pays a price for admission to any event described in section 1(a) of this chapter. The term does not include persons who are entitled to be at an event without having paid a price for admission.

(b) The entertainment facility admission tax equals fifty cents (\$.50) for each paid admission to an event described in section 1 of this chapter.

Sec. 3. (a) Each person who pays a price for admission to an event described in section 1(a) of this chapter is liable for the tax imposed under this chapter.

(b) The person who collects the price for admission shall collect the entertainment facility admissions tax imposed under this chapter at the same time the price for admission is paid. The person shall collect the tax as an agent of the city in which the



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1 facility described in section 1 of this chapter is located.

2 Sec. 4. (a) A person who collects a tax under section 3 of this
3 chapter shall remit the revenue collected monthly to the city fiscal
4 officer. The tax collected from persons paying for admission to a
5 particular event shall be remitted not more than twenty (20) days
6 after the end of the month during which the event occurred.

7 (b) At the time the tax revenues are remitted, the person shall
8 report the amount of tax collected on forms approved by the city
9 fiscal body.

10 Sec. 5. (a) If a tax is imposed under this chapter, the city fiscal
11 body shall establish a city ticket tax fund. The city fiscal officer
12 shall deposit money received under section 4 of this chapter in the
13 city ticket tax fund.

14 (b) Money earned from the investment of money in the fund
15 becomes a part of the fund.

16 (c) Money in the fund may be used by the city only for the
17 following:

18 (1) Costs to construct, reconstruct, or improve public
19 thoroughfares or highways to improve ingress or egress to
20 and from the facility.

21 (2) Payment of principal and interest on bonds issued, or lease
22 rentals on leases entered into, by the city to finance the
23 construction, reconstruction, or improvement of public
24 thoroughfares or highways under subdivision (1). Costs
25 payable under this subdivision include costs of capitalized
26 interest and legal, accounting, and other costs incurred in the
27 issuance of any bonds or the entering into of any leases.

28 (3) Payment of any access or connection fee imposed on the
29 facility for access to the city's public sewer system, as long as
30 the fee applies to all property owners served and is uniformly
31 assessed within the city's corporate boundaries.

32 Sec. 6. The city fiscal body may enter into any agreement or
33 contract with the owner of the facility to facilitate the
34 administration of an ordinance adopted under this chapter.

35 Sec. 7. With respect to:

36 (1) bonds, leases, or other obligations to which the city has
37 pledged revenues under this chapter; and

38 (2) bonds issued by a lessor that are payable from lease
39 rentals;

40 the general assembly covenants with the city and the purchasers or
41 owners of the bonds or other obligations described in this section
42 that this chapter will not be repealed or amended in any manner



1 **that will adversely affect the collection of the tax imposed under**
2 **this chapter or the money deposited in the city ticket tax fund, as**
3 **long as the principal of or interest on any bonds, or the lease**
4 **rentals due under any lease, are unpaid.**

5 SECTION 13. THE FOLLOWING ARE REPEALED[EFFECTIVE
6 JULY 1, 2003]: IC 6-3.1-5; IC 6-8.1-10-11.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1811, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 19 through 42.

Page 3, delete line 1.

Page 3, delete lines 21 through 42.

Delete page 4.

Page 5, delete lines 1 through 5.

Page 6, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 8. IC 6-5.5-1-18, AS AMENDED BY P.L.129-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) "Unitary business" means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another, individually or as a group, in transacting the business of a financial institution. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership, a limited liability company, or a trust, provided that each member is either a holding company, a regulated financial corporation, a subsidiary of either, a corporation that conducts the business of a financial institution under ~~IC 6-5.5-1-17(d)(2)~~, **section 17(d)(2) of this chapter**, or any other entity, regardless of its form, that conducts activities that would constitute the business of a financial institution under ~~IC 6-5.5-1-17(d)(2)~~ **section 17(d)(2) of this chapter** if the activities were conducted by a corporation. The term "unitary group" includes those entities that are engaged in a unitary business transacted wholly or partially within Indiana. ~~However, the term does not include an entity that does not transact business in Indiana.~~

(b) Unity is presumed whenever there is unity of ownership, operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities that are members of the unitary group, as described in subsection (a). However, the absence of these centralized activities does not necessarily evidence a nonunitary business.

(c) Unity of ownership, when a corporation is involved, does not exist unless that corporation is a member of a group of two (2) or more business entities and more than fifty percent (50%) of the voting stock of each member of the group is directly or indirectly owned by:

(1) a common owner or common owners, either corporate or

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noncorporate; or

(2) one (1) or more of the member corporations of the group.

SECTION 9. IC 6-5.5-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2003]: **Sec. 16. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another taxing jurisdiction if:**

(1) in that taxing jurisdiction the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that taxing jurisdiction has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the taxing jurisdiction does or does not."

Page 6, line 41, strike "6-8.1-10-1."

Page 10, delete lines 2 through 29, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE DECEMBER 31, 2003] **IC 6-5.5-1-18, as amended by this act, and IC 6-5.5-4-16, as added by this act, apply only to taxable years beginning after December 31, 2003."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1811 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 26, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1811 be amended to read as follows:

Page 4, delete lines 10 through 42.

Page 5, delete lines 1 through 12.

Page 8, delete lines 37 through 40.

Renumber all SECTIONS consecutively.

(Reference is to HB 1811 as printed February 11, 2003.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred House Bill No. 1811, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 19 through 37, begin a new paragraph and insert:

"SECTION 2. IC 5-17-1-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of personal property made after June 30, 2003, by an agency (as defined in IC 4-13-2-1) or a state educational institution (as defined in IC 20-12-0.5-1) to the same extent as if the lease or purchase were subject to IC 5-22.**

SECTION 3. IC 5-22-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) **This subsection applies to a purchase of supplies or services for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2003, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase property or services from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax). A purchasing agent shall require an offeror submitting a bid or contract to certify that the offeror is not an ineligible vendor under this subsection.**

(c) The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

SECTION 4. IC 6-2.5-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003] **Sec. 14. The department shall provide the Indiana department of administration and each purchasing agent for each state educational institution (as defined in IC 20-12-0.5-1) with a list of persons that are delinquent in remitting or paying amounts due to the department under this article. The department shall periodically revise the list to notify the Indiana department of administration and state educational institutions of additions or**

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deletions from the list.

SECTION 5. IC 6-2.5-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person that:

- (1) makes retail transactions from outside Indiana to a destination in Indiana;
- (2) does not maintain a place of business in Indiana; and
- (3) **either:**
 - (A) engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana;
 - (B) **enters into a contract to provide property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1); or**
 - (C) **agrees to sell property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1);**

shall file an application for a retail merchant's certificate under this chapter and collect and remit ~~the use~~ tax as provided in this article. **Conduct described in subdivision (3)(B) and (3)(C) occurring after June 30, 2003, constitutes consent to be treated under this article as if the person has a place of business in Indiana or is engaging in conduct described in subdivision (3)(A), including the provisions of this article that require a person to collect and remit tax under this article.**

(b) A person is rebuttably presumed to be engaging in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person does any of the following:

- (1) Distributes catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, regardless of whether the distribution is by mail or otherwise and without regard to the place from which the distribution originated or in which the materials were prepared.
- (2) Displays advertisements on billboards or displays other outdoor advertisements in Indiana.
- (3) Advertises in newspapers published in Indiana.
- (4) Advertises in trade journals or other periodicals that circulate primarily in Indiana.
- (5) Advertises in Indiana editions of a national or regional publication or a limited regional edition in which Indiana is included as part of a broader regional or national publication if the advertisements are not placed in other geographically defined editions of the same issue of the same publication.
- (6) Advertises in editions of regional or national publications that

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are not by the contents of the editions geographically targeted to Indiana but that are sold over the counter in Indiana or by subscription to Indiana residents.

(7) Broadcasts on a radio or television station located in Indiana.

(8) Makes any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(c) A person not maintaining a place of business in Indiana is considered to be engaged in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person engages in any of the activities described in subsection (b) and:

(1) makes at least one hundred (100) retail transactions from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months; or

(2) makes at least ten (10) retail transactions totaling more than one hundred thousand dollars (\$100,000) from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months.

(d) The location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana, including products and services such as creation of copy, printing, distribution, and recording;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section."

Page 7, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 9. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 34. Entertainment Facility Admissions Tax

Sec. 1. (a) Except as provided in subsection (b), after June 30 of a year but before January 1 of the following year, the fiscal body of a city may adopt an ordinance to impose an excise tax, known as the entertainment facility admissions tax, for the privilege of attending any event:

(1) held in a privately owned outdoor entertainment facility that:

(A) has a minimum capacity of at least ten thousand (10,000) patrons; and

(B) is located in a geographic area that has been annexed

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by the city before the adoption of the ordinance; and

(2) to which tickets are offered for sale to the public by:

(A) the box office of the facility; or

(B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(5) An event for which tickets are sold on a per-vehicle or similar basis and not on a per-person basis.

(c) If the fiscal body adopts an ordinance under subsection (a), the tax applies to an event ticket purchased after:

(1) December 31 of the calendar year in which the ordinance is adopted; or

(2) a later date that is set forth in the ordinance.

The tax terminates and may not be collected for events that occur after the city has satisfied any outstanding obligations described in section 5(c)(2) of this chapter.

Sec. 2. (a) As used in this section, "paid admission" refers to each person who pays a price for admission to any event described in section 1(a) of this chapter. The term does not include persons who are entitled to be at an event without having paid a price for admission.

(b) The entertainment facility admission tax equals fifty cents (\$.50) for each paid admission to an event described in section 1 of this chapter.

Sec. 3. (a) Each person who pays a price for admission to an event described in section 1(a) of this chapter is liable for the tax imposed under this chapter.

(b) The person who collects the price for admission shall collect the entertainment facility admissions tax imposed under this chapter at the same time the price for admission is paid. The person shall collect the tax as an agent of the city in which the facility described in section 1 of this chapter is located.

Sec. 4. (a) A person who collects a tax under section 3 of this chapter shall remit the revenue collected monthly to the city fiscal officer. The tax collected from persons paying for admission to a

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particular event shall be remitted not more than twenty (20) days after the end of the month during which the event occurred.

(b) At the time the tax revenues are remitted, the person shall report the amount of tax collected on forms approved by the city fiscal body.

Sec. 5. (a) If a tax is imposed under this chapter, the city fiscal body shall establish a city ticket tax fund. The city fiscal officer shall deposit money received under section 4 of this chapter in the city ticket tax fund.

(b) Money earned from the investment of money in the fund becomes a part of the fund.

(c) Money in the fund may be used by the city only for the following:

(1) Costs to construct, reconstruct, or improve public thoroughfares or highways to improve ingress or egress to and from the facility.

(2) Payment of principal and interest on bonds issued, or lease rentals on leases entered into, by the city to finance the construction, reconstruction, or improvement of public thoroughfares or highways under subdivision (1). Costs payable under this subdivision include costs of capitalized interest and legal, accounting, and other costs incurred in the issuance of any bonds or the entering into of any leases.

(3) Payment of any access or connection fee imposed on the facility for access to the city's public sewer system, as long as the fee applies to all property owners served and is uniformly assessed within the city's corporate boundaries.

Sec. 6. The city fiscal body may enter into any agreement or contract with the owner of the facility to facilitate the administration of an ordinance adopted under this chapter.

Sec. 7. With respect to:

(1) bonds, leases, or other obligations to which the city has pledged revenues under this chapter; and

(2) bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the city and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the city ticket tax fund, as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid."



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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1811 as reprinted February 19, 2003.)

BORST, Chairperson

Committee Vote: Yeas 15, Nays 0.

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